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CHARLES CLARKE SOCIETY

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 751

L. J. SCOTT, *Petitioner,*

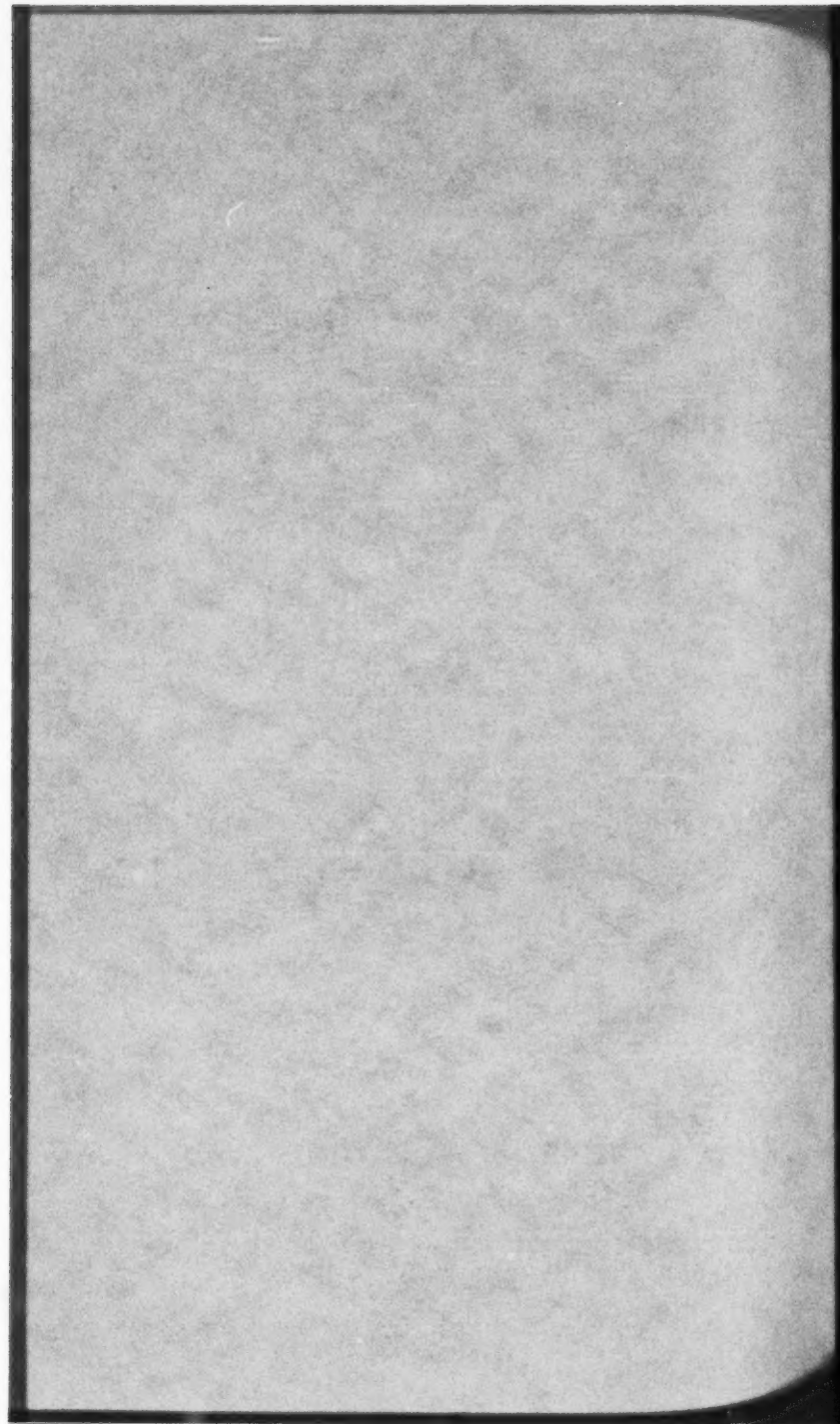
VS.

UNITED STATES OF AMERICA, *Respondent.*

**PETITION FOR WRIT OF CERTIORARI
AND BRIEF IN SUPPORT THEREOF**

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| <p>The Circuit Court of Appeals erred in not following the rules announced by this Court in <i>Clyatt vs. U. S.</i>, 197 U. S. 207, 49 L. Ed. 726; <i>Abrams vs. U. S.</i>, 250 U. S. 616, 63 L. Ed. 1173, and cases cited therein.</p> | |
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| <p>The decision of the Circuit Court of Appeals is in conflict with decisions of other Circuit Courts of Appeals in <i>Spalitto vs. U. S.</i>, 8 Cir. 39 Fed. (2d) 782; <i>Philyaw vs. U. S.</i>, 8 Cir. 29 Fed. (2d) 275; <i>Kassin vs. U. S.</i>, 5 Cir. 87 Fed. (2d) 18; <i>U. S. vs. Russo</i>, 3 Cir. 123 Fed. (2d) 420; <i>Colbaugh vs. U. S.</i>, 8 Cir. 15 Fed. (2d) 929; <i>Eng Jung vs. U. S.</i>, 3 Cir. 46 Fed. (2d) 66, and other Circuit Court cases cited herein.</p> | |
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| <p>The decision of the Circuit Court of Appeals is contrary to recognized standards and usual course of judicial procedure in Criminal cases in Federal Courts and deprives this petitioner of his liberty in violation of the Fifth Amendment to the Constitution of the United States.</p> | |
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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. _____

L. J. SCOTT, *Petitioner,*

vs.

UNITED STATES OF AMERICA, *Respondent.*

PETITION FOR WRIT OF CERTIORARI

May it please the Court:

The petition of L. J. Scott respectfully shows to this Honorable Court:

A

SUMMARY STATEMENT OF THE MATTER INVOLVED

Petitioner, Robert Cabe and Sarah Ives were jointly indicted in the United States District Court, Eastern District of Oklahoma, on January 12, 1944, charged in five counts with violations of the Liquor Prohibitory Laws (R. 1-4). Upon trial by jury petitioner was convicted on three counts, acquitted on two counts. Sarah Ives was acquitted

on all five counts. Robert Cabe plead guilty to all five counts.

Motion for new trial was filed by petitioner in the trial court. This being overruled, an appeal was taken to the United States Circuit Court of Appeals, Tenth Circuit, which affirmed the conviction, Circuit Judge Orie L. Phillips dissenting.

B

REASONS RELIED ON FOR ALLOWANCE OF THIS WRIT

1. The decision of the Circuit Court of Appeals is in conflict with the decisions of this court in *Clyatt vs. United States*, 197 U. S. 207, 49 L. Ed. 726, *Abrams vs. United States*, 250 U. S. 616, 63 Law Ed. 1173, and other cases cited in brief.

2. The decision of the Circuit Court of Appeals is in conflict with decisions of other Circuit Courts of Appeals in *Spalitto vs. United States*, 8 Cir. 39 Fed. (2d) 782, *Philyaw vs. United States*, 8 Cir. 29 Fed. (2d) 225, *Kassin vs. United States*, 5 Cir. 87 Fed. (2d) 18, *United States vs. Russo*, 3 Cir. 123 Fed. (2d) 420, *Colbaugh vs. United States*, 8 Cir. 15 Fed. (2d) 929, *Eng Jung vs. United States*, 3 Cir. 46 Fed. (2d) 66, and other Circuit Court cases cited in brief.

3. The decision of the Circuit Court of Appeals is contrary to recognized standards and usual course of judicial procedure in criminal cases in Federal Courts and de-

prives this petitioner of his liberty in violation of the Fifth Amendment to the Constitution of the United States.

WHEREFORE, this petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this Honorable Court, directed to the United States Circuit Court of Appeals, Tenth Circuit, commanding that Court to certify and to send to this Court for its review and determination, on a day certain to be therein named, a full and complete transcript of the record and all proceedings in the case numbered and entitled on its docket, No. 2919, *L. J. Scott, appellant, vs. United States of America, appellee*, and that the decision and opinion of the Circuit Court of Appeals may be reversed by this Honorable Court, and this petitioner may have such other and further relief in the premises as to this Honorable Court may seem meet and just; and this petitioner will ever pray.

L. J. SCOTT.

By H. A. LEDBETTER,
Ardmore, Oklahoma,
Counsel for Petitioner.

THOS. W. CHAMPION,
LOUIS A. FISCHL,
Ardmore, Oklahoma,
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